

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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RANDY BERKSHIRE,

Plaintiff,

Case No. 1:21-cv-689

v.

Honorable Ray Kent

SHERRY PAYTON et al.,

Defendants.

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**ORDER LIFTING STAY AND FOR SERVICE**

This is a prisoner civil rights action. The Court previously reviewed the complaint under 28 U.S.C. § 1915A and 42 U.S.C. § 1997e(c), to determine whether it was frivolous, malicious, failed to state a claim upon which relief could be granted or sought monetary relief against a defendant that was immune from such relief. The Court then referred the case to the *Pro Se* Prisoner Civil Rights Litigation Early Mediation Program and entered an order staying the case for any purpose other than mediation. The case was not resolved through the early mediation program. Accordingly,

**IT IS ORDERED** that the stay of this proceeding that was entered to facilitate the mediation is **LIFTED**.

**IT IS FURTHER ORDERED** that the 90-day period for service set forth in Federal Rule of Civil Procedure 4(m) shall run, starting with the date of this order.

**IT IS ORDERED** that the Clerk shall issue a summons for Defendant Payton and send the summons to Plaintiff with a copy of this order and one copy of the complaint and any

exhibits. Because Plaintiff is not proceeding *in forma pauperis* in this action, he is responsible for service of the summons and complaint upon Defendant Payton. *See* Fed. R. Civ. P. 4.

**IT IS FURTHER ORDERED** that Defendant Payton shall file an appearance of counsel (Defendant Payton may appear *pro se* if she does not have counsel) within 21 days of service or, in the case of a waiver of service, 60 days after the waiver of service was sent. Until so ordered by the Court, Defendant Payton is not required to file an answer or motion in response to the complaint, and no default will be entered for failure to do so. *See* 42 U.S.C. § 1997e(g)(1). After Defendant Payton has filed an appearance, proceedings in this case will be governed by the Court's Standard Case Management Order in a Prisoner Civil Rights Case.

Dated: August 22, 2022

/s/ Ray Kent  
Ray Kent  
United States Magistrate Judge